

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5249 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE H.L.GOKHALE

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SECRETARY

Versus

KASALSINH GOVINDSINH ZALA (RANA) REP. THRU LEGAL HEIR

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1. Whether Reporters of Local Papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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Appearance:

M/S PATEL ADVOCATES for Petitioner
MR DH WAGHELA for Respondent No. 1
MR PJ YAGNIK for Respondent No. 2

CORAM : MR.JUSTICE H.L.GOKHALE

Date of decision: 03/12/97

ORAL JUDGEMENT

Heard Mr Kodekar for the petitioner and Mr Vaghela for respondent no.1 and Mr Yagnik for respondent no.2. This petition seeks to challenge the order of the Presiding Officer of the Labour Court dated 30th November 1996 in Recovery Application No.816 of 1990. That is an order passed under section 33-C (2) of the Industrial Disputes Act, 1947. Respondent no.1 was employed as a night watchman during the relevant period on a monthly pay of Rs.150 which was obviously not in accordance with the requirement under the Minimum Wages Act. That led him to file that proceeding. Earlier, one ex parte order was passed and the same was set aside at the intervention of this Court and the proceeding was restored and subsequently this order has come to be passed.

2 Mr Kodekar for the petitioner states that respondent no.1 was not an employee of the petitioner and was an employee of respondent no.2 - nagarpalika. Respondent no.2 has filed a reply and contested this submission. Respondent no.2 has also placed it on record that way back on 4th January 1960 the then Commissioner of Rajkot Division had sanctioned the particular set up wherein the post of Chowkidar appears at serial no.9. Mr Kodekar tried to take advantage of a government document which referred to taking over of the responsibility by the State Government with respect to pay of other employees working in that centre. That does not explain of this responsibility as early as on January 1960 and continued reimbursement of that amount to respondent no.2 by the State Government. If that amount of Rs.150 was being reimbursed by the State Government the liability to pay the difference as per the Minimum Wages Act will also be that of the State Government.

3 In these circumstances, there is no error in the order passed by the learned judge. Rule had been issued in this matter on 18th July 1997. All the advocates have made their submissions. There is nothing further to be heard in this matter and hence Rule is discharged. Order passed by the learned Labour Judge is confirmed.

4 Mr Waghela points out that the employee who had been engaged earlier had subsequently died and it is his widow who has been joined as his representative the first respondent. Inasmuch as this matter has been pending for a long time, it is desirable that this amount should be paid forthwith. However, looking to the procedural delay which is always inherent in such clearances, the petitioner is directed to clear the amount awarded within four weeks from today.

(mohd)